A Primer on How to Prepare for Giving Opinion Evidence at a Personal Injury Trial: A Plaintiff Lawyer's Perspective

Robert M. Ben, B.A., B.S.W., J.D.
Thomson Rogers, Lawyers

rben@thomsonrogers.com
416-868-3168 | 1-888-223-0448

THOMSON ROGERS
PERSONAL INJURY LAWYERS

A trial is not a tea party

A civil trial for damages arising out of personal injury is nothing more than an examination of evidence, before a judge or jury, in order to decide the existence, cause, responsibility for, and losses flowing from, the injury.

A trial is a test taken by the plaintiff (who bears the burden of proof) and each and every witness called in support of his or her case. Their evidence will be weighed against the opposing evidence and ultimately be judged upon by the judge or jury.

A trial is an adversarial contest between opposing parties. It is serious business. One side will lose.

Lawyers are duty bound to act as zealous advocates for their clients' opposing interests. The lawyers' Code of Professional Conduct demands this: "to raise fearlessly every issue, advance every argument, and ask every question, however distasteful, which the lawyer thinks will help the client's case."

Evidence at trial must be clear, logical and persuasive. Thorough witness preparation by the summonsing lawyer is essential and its importance cannot be overstated.

What is evidence?

In general terms, evidence is anything that furnishes proof of a fact or assertion to ascertain the truth of a matter. Evidence can come in many forms including physical objects, written documents, photographs/video or, most commonly, the observations (or in certain cases the opinion) of a person.

What kind of witness are you?

You need to know whether you are being called as a fact or opinion witness. An excerpt from the case law illustrates the difference:

> "As a general rule, a witness may not give opinion evidence but may testify only to facts within her or his knowledge, observation and experience. It is the province of the trier of fact (the judge or jury) to draw inferences from the proven facts. A qualified expert witness, however, may provide the trier of fact with a ready-made inference (i.e. an opinion) which the jury is unable to draw (on its own) due to the technical nature of the subject matter. This expert opinion evidence is permitted to assist the fact-finder form a correct judgment on a matter in issue since ordinary persons are unlikely to do so without the assistance of persons with special knowledge, skill or expertise."

Admissible opinion evidence falls into two categories:

1. Expert opinion (evidence on matters requiring specialized skill and knowledge).
2. Non-expert opinion (evidence on matters requiring no special knowledge, where it is virtually impossible to separate the witness' inference from the facts on which the inference is based, i.e., a compendious statement of facts. This might include such things as the identification of handwriting, persons and things, apparent age, the emotional state of a person, the condition of things, and estimates of speed and distance, etc.).

To complicate matters, there are three types of expert witnesses:

1. Participant expert (a treating health care professional who forms opinions based on their participation in treatment rather than because they were engaged by a party to the lawsuit to form an opinion).
2. Litigation expert (a person with specialized knowledge or expertise

engaged by or on behalf of a party to the lawsuit to provide opinion evidence in relation to the lawsuit).
3. Non-party expert (in the context of a motor vehicle injury claim, for example, a statutory accident benefits insurer's medical examiner who form opinions based on personal observations or examinations for a purpose other than the litigation).

The distinction is relevant because only litigation experts are required to strictly comply with Rule 53 of the *Rules of Civil Procedure*.

Rule 53 requirements

As a general proposition, an expert is required to provide the judge or jury with:

1. Opinion evidence that is fair, objective and non-partisan.
2. Opinion evidence that is related only to matters that are within his or her area of expertise.
3. Such additional assistance as the court may reasonably require to determine a matter in issue.

Further, the expert must acknowledge that his or her duty referred to above prevails over any obligation which he or she may may owe to any party by whom or on whose behalf he or she is engaged (i.e., that he or she is not a "hired gun").

There is no such thing as trial by ambush or surprise in Ontario. There are rules allowing for the discovery of the other side's case well in advance of trial. In this regard, an expert witness that a party intends to rely upon must deliver a report, before testifying at trial, containing the following:

1. The expert's name, address and area of expertise.

2. The expert's qualifications and employment and educational experiences in his or her area of expertise.
3. The instructions provided to the expert in relation to the proceeding.
4. The nature of the opinion being sought and each issue in the proceeding to which the opinion relates.
5. The expert's opinion respecting each issue and, where there is a range of opinions given, a summary of the range and the reasons for the expert's own opinion within that range.
6. The expert's reasons for his or her opinion, including:
    (a) A description of the factual assumptions on which the opinion is based.
    (b) A description of any research conducted by the expert that led him or her to form the opinion.
    (c) A list of every document, if any, relied on by the expert in forming the opinion.
7. An acknowledgement of expert's duty (Form 53) signed by the expert.

While it is true that simply reading any well-prepared and well-written expert report would probably answer almost any question the judge or jury might have about a plaintiff's injury, treatment history, residual impairments and functional limitations, needs for additional rehabilitation and the costs of those services, experts must understand this: in a jury trial (which most personal injury cases are, usually at the election of the defendant) the jury will never see your report. Never.

Evidence at trial is given *viva voce* – "with living voice." The evidence is elicited by lawyers through questioning the witness whose credibility and demeanour in presenting their evidence will be tested, weighed and judged by the jury.

Format of Questioning

Your evidence is given through questioning by the opposing lawyers. The judge will rarely ask you questions. She is essentially a referee.

After swearing an oath or affirming to tell the truth, the questioning begins. There are five phases to the questioning or examination of an expert witness:

1. Examination-in-chief-on your qualifications (by the lawyer who summonsed you).
2. Cross-examination by the opposing lawyer on your qualifications.
3. Examination-in-chief by the lawyer that summonsed you (this is where you give your substantive evidence and opinion).
4. Cross-examination by the opposing lawyer (to test your credibility and the substance of your opinion).
5. Re-examination by the lawyer that summonsed you (if necessary to clarify any issues raised in cross-examination).

Nothing improper about preparation

"Give me six hours to chop down a tree and I will spend the first four sharpening the axe." This quote is wrongly attributed to Abraham Lincoln but the principle is sound. Preparation is always the key to effectively and successfully testifying at trial.

There is absolutely nothing improper about the lawyer who is calling you as a witness to meet with you and extensively prepare you for trial. It would arguably be negligent for the lawyer not to do so. Counsel's job is to work with the witness to develop their evidence in a logical, clear and persuasive way – the court expects this.

The work of preparation must start well before you come to court to testify. It may take hours. It may take days. It will take as long as it takes. You are entitled to charge your time for preparation and attendance at trial. There is nothing wrong with getting paid for your time.

However long preparation takes, my practice at the end of the process, is to prepare, in collaboration with the witness, a "notemap" or a "chapter-by-chapter" outline of the areas of questioning and the evidence of particular importance to be highlighted. This is not a script to be memorized but simply a tool to ensure that the witness is prepared, comes across as prepared, and is not surprised

or caught off guard by an area of questioning. It allows for the orderly presentation of relevant and helpful evidence.

Not everything in your expert's report must, or will be, introduced into evidence. The lawyer will guide you in this regard. The judge and jury will appreciate a well-prepared, concise and focused witness. Your overall credibility will be bolstered. The jury will trust you know what you're doing. The jury will give your opinion more weight.

Reviewing the facts/theory of the case

The necessity of a lawyer spending adequate time in advance of trial thoroughly briefing the expert on the facts and theory of the case cannot be overemphasized. Your evidence and opinion is a piece in a much larger jigsaw puzzle; an important piece, but not the only piece. Rarely does a case turn on the evidence of one expert. The entire weight of the world is not on your shoulders and you should not feel that way. But you do need to know what the puzzle is supposed to look like when put together.

For example, is the plaintiff a formerly healthy brain injury victim who is no longer employable in any capacity? Or, will she eventually be able to work in some limited capacity at a lower paying, less secure job? Is the plaintiff someone who had a pre-existing health problem that made her vulnerable to the effects of a subsequent injury? Is the plaintiff a young boy with a brain injury who now needs assistance, care and support beyond what would normally be provided by parents of a boy that age? Has a "near death" car accident caused lingering psychological trauma even after the physical injuries have healed?

If you don't know the story to be told at trial, you (and the jury) may not know how your piece fits the puzzle. Remember, the fact you are being called as a witness means that your piece does fit the puzzle. Other witnesses who have observed and concluded many of the same things you have will also testify at trial. You are not alone.

The lawyer needs to brief you on the opposing counsel's theory of the case as well. The defence theory may be, for example, that scientific research studies show the vast majority of mild traumatic brain injuries result in an excellent and functional recovery and the plaintiff falls in that group because he has been able to complete high school since his injury. You need to know the competing theories in order to demonstrate to the jury why your opinion is the fair and reasonable one having regard to the factual context in the particular case. "Yes, he completed high school but with formal and informal accommodations, extra-curricular tutoring and professional and family support, all necessary because of his brain injury."

You likely prepared your report months before trial. Evidence will likely have been developed or taken on new meaning or importance since you were first briefed and prepared your report. Experts, if left to their own devices, may gloss over important evidence and overlook details of substance. Judges and juries discard expert opinion on the basis that either the underlying facts cannot be accepted or the expert was unaware of certain material facts. Your lawyer should make certain you understand and are aware of the full body of facts, documents and prospective *viva voce* evidence touching upon the issues relevant to your opinion. This would include:

1. The plaintiff's discovery evidence (which is always reduced to a transcript).
2. The plaintiff's updated medical and other relevant records.
3. The opinions of other (including opposing) experts
4. Any known surveillance or social media presence of the plaintiff.
5. Evidence from collateral sources such as family, friends, former employers and colleagues.

Your lawyer should put you in a position where you can easily and readily identify those facts which are central to the opinion as opposed to those which are merely peripheral or irrelevant or that do not occupy a place of importance.

The bottom line is your lawyer should be briefing you on the entire factual universe concerning the plaintiff so that you are not caught by surprise, or do not know where a particular piece of evidence fits, or do not know how to deal with a particular piece of evidence that may be seen as "damaging" or undermining your opinion.

Preparing for qualification

The judge must declare you to be qualified to give opinion evidence on a certain subject. You are required to provide your CV in advance of trial. It will likely become an exhibit for the jury to review. The purpose is to demonstrate your qualifications to give a trustworthy opinion on the matters in issue in the particular case.

A thorough and close review of your CV before you deliver it is essential. CVs are rarely prepared with the court process in mind. Your lawyer will want to review your CV to ensure that it contains relevant information that will add weight to the particular opinion to be tendered.

If you have written articles, for example, that touch on the subject at hand, those should be given prominence.

Be prepared to testify about your academic history including the full process of study leading to an advanced degree or certification, and any academic achievements along the way.

Be prepared to testify about professional accreditation and distinguish between those that are peer-reviewed, test/licence-based and purely voluntary.

Your "real world" jobs and responsibilities should be explored to enhance your credibility as compared to a non-practicing full-time litigation expert (i.e. a "hired gun") who derives a majority of their annual personal income from expert work.

The subject matter of professional articles or speeches that you have written or presented is worth noting where relevant to the issues and particularly where peer reviewed.

Your lawyer should prepare you for cross-examination by the opposing lawyer on areas of qualification that are weak so that you can address these with minimal difficulty or controversy.

Prepare to be cross-examined on the possible superior qualifications of other experts in the case.

Your lawyer should prepare you to address any challenge to your objectivity, impartiality and non-partisanship, with are thresholds you must pass before being accepted by the court as an expert who can give an opinion. For example, be prepared to answer questions about how much you were paid "for your opinion." The answer of course is that you were not paid "for your opinion" but were paid for your time. The jury will understand this, but there is a distinction you need to be mindful of and prepared to make.

If your CV contains material that could be used to suggest bias (for example, a list of a succession of insurance/defence firms as references) that material is best omitted. You may be cross-examined on the subject, but there is absolutely no need to highlight it in your CV of "qualifications."

Vet your public social media presence for anything that could (fairly or unfairly) undermine your credibility in the eyes of the jury. The opposing lawyer (and likely the jury even though they are prohibited from doing so during the trial) will do so.

Be prepared to acknowledge that you met with the lawyer who summonsed you to review and prepare for the giving of your testimony in a fair, objective and non-partisan manner. By doing so you can avoid the suggestion that you were "coached" on what to say, rather than prepared to give relevant evidence.

Examination-in-chief (form, structure, etc.)

Once you are found qualified to give opinion evidence, the lawyer will lead you through your evidence. You have likely reviewed hundreds if not thousands of pages of clinical records and administered a number of

tests before writing a lengthy report. You ask, "How am I going to remember everything?"

Don't worry. Even though the jury will not get a copy of your report, you are permitted to have your report with you in the witness box to refresh your memory and to refer to while giving your testimony and opinion.

You can bring all of the documents you reviewed in preparing your report. In fact, you are typically required to bring your entire file with you.

Most importantly, your lawyer will have thoroughly prepared you for giving your evidence and will ensure that you do not miss any important evidence.

Questions will be (must be) open-ended (i.e., who, what, when, where, why). The lawyer cannot ask leading questions (i.e., questions which suggest an answer – "Isn't it true that Johnny has difficulty with abstract reasoning and problem solving because of his brain injury? – are improper in examination-in-chief).

The structure of questioning will vary from counsel to counsel and case to case, however will generally take the following format:

1. A few questions to explain the circumstances of your retainer, how you became involved in the case.
2. The materials received, reviewed and considered in forming your opinion (i.e., your data bank).
3. An outline of the steps taken and work completed in order to arrive at your opinion (i.e., clinical testing, examination, interviews with collateral sources of information such as family, friends, literature reviewed, etc.).
4. Your opinion on the issue at hand with such discussion and explanation as may be necessary.
5. Any necessary elaboration upon or explanation of the opinion and the significance of certain material facts in forming the opinion.
6. Finally, if appropriate, comment upon the views of other experts in the case (including those with opposing or differing opinions).

Medical terms

Medical experts have a tendency of using technical terms and explanations such as radial, distal, proximal, frontal. Very few (if any) jurors will understand what frontal lobe executive dysfunction means when hearing evidence about a brain injury. Your lawyer should help you prepare to simplify these terms and concepts into a form understandable by a lay person.

Assume the jury knows nothing. You are their teacher. Often, demonstrative aids can help (i.e., diagrams, anatomic models, etc.) educate the jury.

In one trial I was involved in a speech language pathologist named Patty Young testify about a teenage brain injury victim's cognitive fatigue, which was not evident during his structured school day but manifested itself with behavioural problems at home. The witness made it very understandable for the jury:

> "It's kind of like Christopher starts out with a bucket of ping-pong balls in them. And each of these ping-pong balls represents a certain amount of energy and at the beginning of the day the bucket is filled with ping-pong balls and as he goes throughout the day he's using some of that mental energy in reading and writing and listening to the teacher, and so those ping-pong balls are being pulled out. However, for Christopher, because of his brain injury it's like his bucket has a hole in the bottom and the ping-pong balls are falling out so that he's using up that mental energy faster than he would normally if he had not had his brain injury. So that by the end of the day he's been holding it together, he's been using these balls of energy he's able to interact appropriately with his teacher but at the end of the day he has no energy left. That was seen over and over again – he would go home, … – and there's no structure at home in terms of no language activities, no math activities, etcetera and he would go home

> and had no energy left to deal with his communication skills and so he would just lose it when he gets home."

You don't need to create a visual like this for every technical term but what you can do is "make it real" for the jury by providing examples of the problem. Saying that the plaintiff has frontal lobe executive dysfunction becomes "real" when you give examples from observed and documented challenges (i.e., "When John was out on an excursion with his Rehab Support Worker, the bus they would normally take home was rerouted. Johnny was asked to figure out an alternate route. He couldn't. He became anxious, frustrated, overwhelmed. He started to cry. He couldn't solve the problem that a 17-year-old should normally be able to handle without difficulty").

Your lawyer should be assisting you by preparing summary charts for your use (which can be made exhibits to your evidence and will go to the jury). Charts, for example, listing clinical observations by a Rehab Support Worker of a brain injured client's impaired judgment or behavioural outbursts to demonstrate a persistent pattern, are helpful. This can assist the jury in seeing that you have a robust factual foundation upon which your opinion is based. Your opinion is, after all, only as strong as its factual foundation.

Know the test/ultimate question

Potentially valuable expert evidence can be wasted by counsel's failure to prepare and ask an appropriately specific question – the kind necessary to invite the exert to respond in suitable terms with the ultimate opinion the expert was retained to provide in the first place. An expert's job, ultimately, is to assist the jury in answering a legal question. Did an accident cause or contribute to the plaintiff's injury? Is the plaintiff's condition going to improve or deteriorate over time? Will the plaintiff be able to work in the future?

Your lawyer should educate you on the appropriate legal test. You will find it is likely very different from the scientific or clinical test you apply in your practice. The standard of proof (the test) for past events is "on a balance

of probabilities." Did the accident "more likely than not" cause the brain injury? The scale needs to be tipped only ever so slightly. For example, your opinion may be expressin this way: "Based on the objective results of my neuropsychological testing it is more likely than not that Bill has suffered frontal lobe executive dysfunction".

Your lawyer should prepare you to be precise in your language. Avoid using phrases such as, "It might be," "It could be," or "It is possible." That's no opinion at all. It's not helpful to the jury.

A story: The week after I was called to the bar the well-respected and hard-nosed senior litigator that hired me called me into his office to brief him on my research into the case law on a troubling point of legal interpretation. I had my research memo in hand. I summarized the two divergent lines of cases that had reached somewhat different interpretations of the law. In trying to reconcile the case law I started to say, "I think…" He put his hand up to stop me. "What makes you think I give a damn what you *think*? Go do your thinking in your office and come back to me when you have an *answer*."

The jury is looking for an answer. "Doctor, are you able to say whether John's employment will be affected in the future?" "Well, it's hard to say, I'd pretty much be guessing but I think it might." This is not a helpful answer to anyone. Be confident in your opinion. You reached it for reasons you can justify. You are the expert.

"Balance of probabilities" is the legal test for past events. What about the future? Nobody can predict it. Will the plaintiff get better? Will she get worse? "Doctor, are you able to say whether John's employment will be affected in the future?"

The standard of proof (the legal test) for future events, problems or losses is more relaxed. Is there a "real and substantial possibility or risk?" The case law has interpreted this to mean "something more than a mere trifling possibility." Your lawyer should prepare you to understand the legal test and the appropriate language. "Doctor, are you able to say whether John's employment

will be affected in the future?" "Owing to his persisting brain injury related impairments there is a real and substantial risk that he will not be able to maintain full-time employment on a consistent and reliable basis over the long term."

Four corners

Do not be afraid to venture outside what the courts call the "four corners" of your report. Here is an excerpt from a controlling decision of the Court of Appeal:

> "While testifying, an expert may explain and amplify what is in his or her report but only on matters that are 'latent in' or 'touched on' by the report. An expert may not testify about matters that open up a new field not mentioned in the report. The trial judge must be afforded a certain amount of discretion in applying rule 53.03 with a view to ensuring that a party is not unfairly taken by surprise by expert evidence on a point that would not have been anticipated from a reading of an expert's report."

The latitude afforded a cross-examining opposing lawyer is even wider: cross-examination need not be confined to the "four corners" of the report whatsoever and can be wide ranging, including matters directed solely to witness credibility. That's why it's so important for your lawyer to prepare you not only for his questions "in-chief" but also for questions you might reasonably anticipate on cross-examination by the opposing lawyer.

Cross-examination (form, structure, etc.)

The cross-examining lawyer's goal is to test your opinion for bias, validity and reliability. Her goal is to weaken your testimony in the interests of her client.

To this end, the cross-examiner will attempt to control your evidence (and hence the narrative) through closed-ended questions. They may not sound like questions at all but propositions that you are asked to agree or disagree with. Questions that suggest an answer.

For example: "You would agree with me that scientific research studies show the overwhelming majority of mild traumatic brain injury victims go on to full recovery within three months?"

You are not restricted to a yes/no answer. It is perfectly fine to say that a simple answer cannot be provided in that context and that by elaborating you are simply trying to answer the questions in the most accurate way possible. Another way to handle the yes/no question is to say "in some circumstances" and explain whether those circumstances exist in the present case.

Your file

The starting point is your file. Counsel should work with you with a view to purging all privileged material so that you do not inadvertently take it with you into the witness box and be exposed to cross-examination on notes and discussions with your instructing counsel, preliminary draft reports that do not reflect your ultimate and final opinion, and so on.

Draft reports

The law currently imposes no routine obligation to produce draft expert reports. The courts encourage and expect counsel to consult with experts about their reports and evidence to ensure that the expert evidence is clear, understandable, and pertinent. Counsel are expected to ensure that they do not undermine an expert witness' objectivity and independence by improperly influencing the substance of an opinion, but there is nothing improper about assisting the expert prepare a report that addresses the issues squarely. Only rarely will trials be taken up with a review of earlier draft reports and counsel's communications with the expert

Factual foundation of your opinion

Your lawyer should prepare you to anticipate challenges to the factual foundation of your opinion such as:

1. That it is based on the purely subjective complaints of the plaintiff (in which case you should be prepared to list your consideration of other information you relied upon, such as consistent post-accident reports of symptoms to treating practitioners, consistent receipt of treatment and medications, positive test results, corroborating information from collateral sources, etc.).
2. That you did not have complete and accurate history (this will not happen if you have been properly prepared by your lawyer).
3. That you did not know the plaintiff had a prior/subsequent injury (again, this will not happen if you have been properly prepared by your lawyer).
4. That the plaintiff could be feigning/malingering and you did not test for this (in which case you will testify to your consideration of this and the basis upon which you ruled it out in your final opinion).

Do not get defensive if you feel your opinion is being attacked. Do not pick a fight or joust with the cross-examining lawyer. Maintain your credibility by making reasonable concessions where necessary but hold your ground on your ultimate opinion. Understand the question – "I don't know what you mean" is better than guessing and answering.

Authoritative texts

You may be cross-examined on texts or literature in your particular field of expertise only if you accept the text or literature as an authoritative or standardized text in the field.

Even if the text is authoritative, you can still disagree with it (i.e., when your approach or opinion is based on the specific characteristics of the plaintiff about whom you have a great deal of specific information and the authoritative text speaks in generalities).

If you have authoritative texts or literature that you yourself relied upon in forming your opinion, you should review them before you testify closely – the opposing lawyer certainly will with a view to identifying any differences in your approach in the particular case.

Hypothetical questions

You should be prepared to answer hypothetical questions – questions that ask you to assume facts and express opinion on those assumptions. These are usually designed to undermine your opinion. If your answer is "That is not the case here," say so and why.

Re-examination

Re-examination (after cross-examination) is conducted by the lawyer who summonsed you to trial. It is intended to allow counsel an opportunity to ask questions in order to allow you explain, clarify or place in context evidence given by you in cross-examination.

The question must arise out of the cross-examination. New material is not permitted in re-examination. Counsel cannot ask leading questions (i.e., only open-ended questions are permitted).

Some of the objectives of re-examination are:

1. To resolve outright confusion on the part of the witness (i.e., if you said something contradictory erroneously).
2. To explain motive for apparently damaging admissions made in cross-examination (i.e., where you acknowledge in cross-examination that san injured plaintiff did not get recommended treatment, the re-examining lawyer will be able to elicit the reason – lack of funds).
3. To rebut an inference first raised in cross-examination (i.e., to allow an expert witness to explain that although she agreed research studies show the vast majority of mild brain injury victims have a full recovery within three months, that this particular plaintiff lost his job during that period and went on to develop disabling and persisting depression).

Presentation and demeanour

Perception is reality. Presentation matters. Here are a few "tips:"

1. Counsel and the witness should commit to working together to develop the expert's evidence in a logical, clear and persuasive way.
2. Make sure you are fully briefed on the entire "factual universe" of the case an on potentially contradictory material which may appear elsewhere in the file (not just your file).
3. Be fully apprised of the opinions of all other experts in the case that are generally in the same field of expertise and be in a position to comment upon those other opinions where appropriate.
4. Prepare (but do not over-prepare so that your testimony seems fake, rehearsed or scripted).
5. Respond to questions fully and fairly and concede when necessary while at the same time fairly defending your opinion/position.
6. Your role is not to engage in argument or debate or to advocate for the client retaining you.
7. Explain medical terms and use demonstrative aids to assist the jury in understanding your opinions
8. Key legal words/tests must be emphasized and explained by counsel to make sure you understand the significance of them (i.e., possible, probable, future risk).
9. Your opinion is often bolstered by reference to academic journals – use this to your advantage if you can.
10. Prepare for the inevitable cross-examination on bias and credibility so that you know how to respond to questions such as who is paying you, what opinions were requested before you formed your opinion and why you testify for plaintiffs/defendants almost exclusively.

11. Dress professionally (but not flashy, which may alienate the jury).
12. Vary your eye contact between the questioning lawyer and the jury as appropriate.
13. Keep your hand motions to a minimum unless necessary for demonstration.
14. Do not look to the lawyer calling you for help (you are well-prepared after all).

This article is merely a primer. It does not comprehensively address every aspect of preparation for trial. Each case, of course, has its own particular demands. Every counsel has his or her own preferred method of trial preparation and presentation. The point is to prepare, with counsel, thoughtfully and well before trial so that you can fulfill your duty to assist the court in its task.

***